

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:)
)
See List of Parties)
identified in Attachment 1)
) U.S. EPA Docket No. 98-12
)
) UNILATERAL ADMINISTRATIVE
) ORDER FOR PERFORMANCE
) OF REMOVAL ACTION
Proceeding Under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation and Liability)
Act of 1980, 42 U.S.C. § 9606(a))
_____)

I. AUTHORITY

This Unilateral Administrative Order ("Order") is issued on this date pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-8-A and 14-14-C. This authority has been

redelegated to the Director, Hazardous Waste Division, EPA, Region IX ("Director") by Region IX Delegations 1290.41 and 1290.42.

II. PARTIES BOUND

1. This Order shall apply to and be binding upon all parties listed in Attachment 1 to this order (collectively "Respondents"), and their agents, successors and assigns. No change in ownership or operational status will alter Respondents' obligations under this Order. Notwithstanding the terms of any contract or agreement, Respondents are responsible for compliance with this Order and for ensuring that their employees, contractors, and agents comply with this Order. Respondents shall provide a copy of this Order to all contractors, subcontractors, and consultants which are retained by Respondent(s) to perform the work required by this Order, within five (5) days of retaining their services.

2. Respondents may not convey any title, easement, or other interest they may have, either individually or collectively, in any property comprising the Site, as the term "Site" is defined below, without a provision permitting the continuous implementation of the provisions of this Order. Any Respondent wishing to transfer any title, easement, or other

interest it may have in any property comprising the Site shall provide a copy of this Order to any subsequent owner(s) or successor(s) before any ownership rights are transferred. Any such Respondent shall advise EPA six (6) months in advance of any anticipated transfer of interest.

III. DEFINITIONS

3. Unless otherwise expressly provided herein or in the Definitions in Attachment 2, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in the attachments hereto and incorporated hereunder, the following definitions shall apply:

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments & Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

"Unilateral Order" or "Order" shall mean this Unilateral Administrative Order, EPA docket number 98-12, and all exhibits attached hereto. In the event of a conflict between this Unilateral Order and any exhibit, this Unilateral Order shall control.

"EPA" shall mean the United States Environmental

Protection Agency and any successor departments or agencies of the United States.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.

"Response actions" shall be those specific work items each Respondent is required to perform at the Site pursuant to this Unilateral Order, as set forth in Section VIII C.

"Respondents" shall mean those entities listed in Attachment 1 of this order, both individually and collectively.

"State" shall mean the State of California, and all of its political subdivisions, including the California Department of Toxic Substances Control ("DTSC").

"United States" shall mean the United States of America.

IV. FINDINGS OF FACT

4.

a) The PRC Patterson site (the "Site") is located at 13331 North Highway 33 in Patterson, Stanislaus County, California. The approximately 20-acre Site is surrounded primarily by agricultural land. The City of Patterson is located approximately 2 miles south of the Site. There are numerous

irrigation canals located in the immediate vicinity of the Site. Several of these canals drain into Del Puerto Creek, which flows within a mile of the Site. Del Puerto Creek flows into the San Joaquin River. A Site map is attached as Attachment 3.

b) Facility operations were commenced in the early 1980's by Recycletron Oil Inc., ("RCI"), a California corporation doing business as Refineries Services. RCI was a recycler of waste oil and oily water. In 1989, Recycletron Oil Inc., merged with Petroleum Recycling Corporation, a California corporation. Shortly thereafter, a wholly separate California corporation, PRC Patterson ("PRC") was formed. The Site operated continuously until sometime in 1997.

c) On October 31, 1997 EPA received a verbal request for assistance at the Site from DTSC. EPA, in conjunction with DTSC, conducted a preliminary inspection of the facility on that date and made the following observations: The Site had been abandoned and general site conditions had begun to deteriorate. The facility was not secured and had been heavily vandalized. Many tanks and containers appeared to be unstable due to their age and deteriorating condition. Several of these tanks were leaking and one of the larger tanks reportedly had failed catastrophically in

the past.

d) On November 18, 1997, following the receipt of a written request for assistance from DTSC, EPA initiated an emergency response action to stabilize these unsafe and dangerous conditions which presented an endangerment to the public health, welfare, and environment. EPA provided round-the-clock Site security, upgraded the perimeter fence and berm, and pumped down the liquid level in several storage tanks which were either overflowing or on the verge of overflowing.

e) From December 1 through December 6, 1997, EPA conducted an assessment of the Site. Results of sampling and analyses conducted during this assessment are presented in the March 1998 report entitled "Enviro-pur/PRC Patterson Oil Recycling Facility Removal Assessment" prepared by Ecology and Environment. The following is a brief inventory of items and materials currently stored onsite:

1) Numerous process tanks, storage tanks, pressure tanks, pumps, a water treatment system, filtration equipment, heating, distillation and refining equipment, office trailers, laboratory trailers, and a large warehouse.

The tanks and equipment contain varying amounts of oil, sludge, wastewater or mixtures of all three substances. Many of the tanks were observed to be leaking. Two of the large storage tanks had large holes in the roofs.

2) There are several large storage tanks on the facility which contain large volumes of liquid. These tanks, identified in Attachment 3, are referred to Storage Tank S1, Storage Tank S2, Storage Tank S3, Storage Tank S4 and Storage Tank S5. Excluding the S3 tank, which is being addressed in a separate order, the tanks contain a cumulative total of approximately 4 million gallons of waste water, 125,000 gallons of waste oil and 810,000 gallons of oily sludge.

3) There are also more than 1,100 drums present onsite. The majority of these drums are labeled "drained used oil filters". Upon inspection by EPA, these drums appear to contain drained used oil filters as labeled.

4) There are approximately 40 drums present onsite which contain chemical product.

5) Fourteen roll-off bins, labeled as hazardous waste dirt bins, are present onsite.

6) Two trailers used as onsite laboratories contain various chemicals apparently used for testing of incoming oil.

5. On April 10, 1998, EPA issued a Unilateral Administrative Order to Chevron USA, requiring that Chevron clean up the S3 tank at the Site. Chevron has indicated that it intends to comply with the Order and is conducting the clean up.

6. Based on the large volumes of waste oil, sludge and oily wastewater present at the Site, cleanup of the Site will be costly and time consuming. EPA believes the cost of cleanup may exceed 5 million dollars.

7. The Respondents are persons or entities who have been identified as transporters or generators of waste oil, sludge or oily wastewater, in excess of 90,000 gallons, to the site between 1980 and 1997.

8. The sampling conducted by EPA's contractor, of the

waste oil and oily wastewater in the S1, S2, S4, S5 and P2 tanks confirmed the presence of Cadmium, Chromium, Copper, Lead, Mercury and Nickel.

9. The materials stored on site contain hazardous substances. The threat of a release of these substances is exacerbated by the aging and dilapidated condition of the tanks, the lack of a roof on the S4 tank, several holes in the roof of the S1 tank, seasonal rains, the lack of regular or routine inspection and maintenance, and the fact that PRC Patterson Inc., the site owner and operator has now abandoned the entire site.

V. CONCLUSIONS OF LAW

10. The PRC Patterson Superfund site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

11. The Respondents, as identified in Attachment 1 are each "persons" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601 (21);

12. The Respondents, as generators and/or transporters to the site of waste oil, oily wastewater or sludge which contained hazardous substances, are each "liable parties" within the meaning of Section 107(a), 42 U.S.C. §9607(a), and are subject to

this Order under Section 106(a) of CERCLA, 42 U.S.C. §9606(a);

13. Cadmium, Chromium, Copper, Lead, Mercury and Nickel were detected in the waste oil, oily wastewater and sludge currently found at the Site, and each of these substances is a "hazardous substance" as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14);

14. The past, present or future migration of hazardous substances from the Site constitutes an imminent and substantial endangerment due to the actual or threatened "release" of hazardous substances, as the term "release" is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22);

VI. DETERMINATIONS

Based on the Findings of Fact and the Conclusions of Law, the Director of the Hazardous Waste Division, EPA Region IX, has made the following determinations:

15. That an actual or threatened release of hazardous substances from the Site presents an imminent and substantial endangerment to the public health or welfare or the environment.

16. That conditions existing at the Site constitute a threat to public health or welfare or the environment based upon a consideration of the factors set forth in the NCP at 40 C.F.R. § 300.415(b), and that the actions required by this Order are necessary to protect the public health, welfare and the

environment.

17. The actions required by this Order, if properly performed, will be deemed consistent with the National Contingency Plan, 40 C.F.R. Part 300 ("NCP"), and are appropriate to protect the public health or welfare or the environment.

VII. NOTICE TO THE STATE

18. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. §9606(a), EPA has notified the State of California of the issuance of this Order by providing the Department of Toxic Substances Control (DTSC) a copy of this Order.

VIII. ORDER

Based on the Findings of Fact, Conclusions of Law, and Determinations, EPA hereby orders Respondents to perform the specific work set forth below under the direction of EPA's On-Scene Coordinator, and to comply with all requirements of this Order:

A. General Provisions:

19. All work required by this Order shall be conducted in accordance with: CERCLA; the NCP; EPA Region IX "Guidance for Preparing Quality Assurance Project Plans for Superfund Remedial Projects" (EPA, November 1992); any final amended or superseding versions of such documents provided by EPA; other applicable EPA guidance documents; and any report, document or deliverable

prepared by EPA because Respondents fail to comply with this Order.

20. All plans, schedules, and other reports that require EPA's approval and are required to be submitted by the Respondents pursuant to this Order and shall, upon approval by EPA, be incorporated into and enforceable under this Order.

21. EPA will oversee Respondents' activities as specified in Section 104(a)(1) of CERCLA Section, 42 U.S.C. §9604(a)(1). Respondents will support EPA's initiation and implementation of activities needed to carry out its oversight responsibilities. Respondents shall also cooperate and coordinate the performance of all work required to be performed under this Order with all other work being performed at the site, including work performed by EPA, the State, another Respondent, or any other party performing work at the site with the approval of EPA.

22. Respondents shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided under CERCLA or unless the Respondents obtain a variance or exemption from the appropriate governmental authority.

B. Selection of Contractor(s) and Subcontractor(s):

23. All work performed by or on behalf of Respondents pursuant to this Order shall be performed by qualified individuals or contractors with expertise in hazardous waste site investigation or remediation, unless agreed otherwise by EPA. Respondents shall, no later than August 28, 1998, notify EPA in writing of the name, title and qualifications of the individual(s) who will be responsible for carrying out the terms of this Order, and the name(s) of any contractor(s) or subcontractor(s). The qualifications of the persons, contractors, and subcontractors undertaking the work for Respondents shall be subject to EPA review and approval.

24. If EPA disapproves of any person's or contractor's technical or work-experience qualifications, EPA will notify the Respondents in writing. Respondents shall, within five (5) days of Respondents' receipt of EPA's written notice, notify EPA of the identity and qualifications of the replacement(s). Should EPA disapprove of the proposed replacement(s), Respondents shall be deemed to have failed to comply with the Order.

25. Respondents may propose to change the individual(s), contractor(s), or subcontractor(s) retained to direct and supervise the work required by this Order. If Respondents wish to propose such a change, the Respondents shall notify EPA in

writing of the name, title, and qualifications of the proposed individual(s), proposed contractor(s), or proposed subcontractor(s), and such individual(s), contractor(s) or subcontractor(s) shall be subject to approval by EPA in accordance with the terms of paragraphs 23 and 24 above. The naming of any replacement(s) by Respondents shall not extend any deadlines required by this Order nor relieve the Respondents of any of their obligations to perform the work required by this Order.

26. Respondents will notify EPA of their respective field activities at least one week before initiating them so that EPA may adequately schedule oversight tasks.

27. At least seven (7) days prior to commencing any work at the Site pursuant to this Order, Respondents shall submit to EPA a certification that Respondents or their contractor(s) and subcontractor(s) have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of performance of the work required by this Order. Respondents shall ensure that the United States is named as an additional named insured on any such

insurance policies.

C. Work and Deliverables:

28. WORK TO BE PERFORMED

a) Respondents are ordered to perform the Work and make submittals and certifications as set forth below within the time schedules specified. All days specified below are consecutive calendar days from the Effective Date of this Order. Due dates falling on a Saturday, Sunday, or federal holiday will be automatically extended to the next business day.

b) Commencing on the date set forth below, monthly progress reports ("Progress Reports") shall be submitted. The first such Progress Report shall be due by the fifteenth (15th) day following the end of the first full calendar month after the Effective Date of this Order, and by the fifteenth (15th) day of every month thereafter.

c) Within twenty-one (21) days after the Effective Date of the Order, Respondents shall submit a Sampling and Analysis Plan, Health and Safety Plan and Contingency Plan. At a minimum the Sampling and Analysis Plan shall include the following:

- 1) a detailed description of the methods to be used to

identify all tanks and drums on the Site (except Storage Tank S3) which contain liquid, sludge or solid material and to identify the volumes of such materials within each tank and drum.

2) a detailed description of the sampling and analytical methods to be used to characterize the liquid, sludge or solid material for disposal purposes;

d) Within seven (7) days after EPA approval of the Sampling and Analysis Plan, the Respondents shall initiate the work described under this plan.

e) Within forty-five (45) days after EPA approval of the Sampling and Analysis Plan, the Respondents shall submit a Tank and Drum Removal Work Plan which, at a minimum, shall include the following:

1) a plan for removal of the contents of all storage tanks and drums, at the facility which are identified to contain liquid, sludge, or solid material. This shall not include Storage Tank S3, since this tank is being addressed by Chevron; but shall at a minimum include Storage Tanks S1, S2, S4, S5, the "P-Series" Tanks, and the approximately 1,100 drums of drained, used oil filters.

- 2) a detailed description of the methods for removing liquid, sludge and solid materials from the tanks and drums;
- 3) a detailed description of any treatment that will be performed on the waste;
- 4) identification of any treatment, storage, disposal or recycling facility that will receive the waste;
- 5) identification of the methods of transport used to haul any waste offsite;
- 6) identification of any transporters used to haul any waste offsite;
- 7) a detailed description of air monitoring to be performed during onsite activities;
- 8) a detailed description of actions to be taken to minimize air emissions;
- 9) A plan for the decontamination and/or demolition of all the tanks containing liquid, sludge or solid materials.

10) A schedule for completion of all activities described in the Tank and Drum Removal Work Plan.

f) Within seven (7) days after EPA approval of the Tank and Drum Removal Work Plan, Respondents shall initiate the work described in that plan. All activities described in the Tank and Drum Removal Work Plan shall be completed within one hundred and twenty (120) days of EPA approval of the Work Plan, unless an alternative schedule is agreed upon by EPA.

g) All contractors, transporters and treatment, storage, disposal or recycling facilities used or proposed for use during this action are subject to EPA approval. Respondents must demonstrate to EPA's satisfaction that the waste is or is not a Listed or Characteristic Hazardous Waste as defined in 40 C.F.R. Part 261. All subsequent handling, transport and disposal shall be conducted in accordance with this waste classification.

h) Respondents shall provide security for the site commencing no later than August 28, 1998, unless a later date is agreed upon by EPA.

i) Any noncompliance with the Work to be performed or the schedules set forth within this section shall be considered a violation of this Order.

29. All documents, including technical reports, and other correspondence to be submitted by the Respondents pursuant to this Order, shall be sent by over-night mail to the following addressees or to such other addressees as EPA hereafter may designate in writing, and shall be deemed submitted on the date received by EPA. Respondents shall submit two (2) copies of each document to EPA, and two (2) copies to the DTSC.

30. EPA shall review, comment, and approve or disapprove each plan, report, or other deliverable submitted by Respondents. All EPA comments on draft deliverables shall be incorporated by the Respondents. EPA shall notify the Respondents in writing of EPA's approval or disapproval of a final deliverable. In the event of any disapproval, EPA shall specify the reasons for such disapproval, EPA's required modifications, and a time frame for submission of the revised report, document, or deliverable. If the modified report, document or deliverable is again disapproved by EPA, EPA shall first notify the Respondents of its disapproval of the resubmitted report, document, or deliverable, and then may draft its own report, document or deliverable and incorporate it as part of this Order, may seek penalties from the Respondents for failing to comply with this Order, or may conduct the remaining work required by this Order.

31. For purposes of this Order, EPA's authorized

representatives shall include, but not be limited to, DTSC and any consultants and contractors hired by EPA to oversee activities required by this Order.

IX. NOTICE OF INTENT TO COMPLY

32. Each individual Respondent shall, by no later than August 19, 1998, provide written notice to EPA of Respondent's irrevocable intent to comply with this Order. Failure to respond, or failure to agree to comply with this Order, shall be deemed a refusal to comply with this Order.

X. OPPORTUNITY TO CONFER

33. Respondents may, within three (3) days of receipt of this Order, request a conference with the Chief of the Emergency Response Office in the Superfund Division, or whomever the Chief of the Emergency Response Office may designate. If requested, the conference shall occur within three (3) days of the request, unless extended by mutual agreement of the Parties, at EPA's Regional Office, 75 Hawthorne Street, San Francisco, California.

34. At any conference held pursuant to Respondents' request, the Respondents may appear in person, or be represented by an attorney or other representative. If Respondents desire such a conference, the Respondents shall contact Jeanne Elias, Assistant Regional Counsel, at (415) 744-1317.

35. The purpose and scope of any such conference held

pursuant to this Order shall be limited to issues involving the implementation of the response actions required by this Order and the extent to which Respondents intend to comply with this Order. If such a conference is held, the Respondents may present any evidence, arguments or comment regarding this Order, its applicability, any factual determinations upon which the Order is based, the appropriateness of any action which the Respondents are ordered to take, or any other relevant and material issue. Any such evidence, arguments or comments should be reduced to writing and submitted to EPA within three (3) days following the conference. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. If no conference is requested, any such evidence, arguments or comments must be submitted in writing within three (3) days following the Effective Date of this Order. Any such writing should be directed to Jeanne Elias, Assistant Regional Counsel, Mail Stop ORC-3, at the address cited above.

36. Respondents are hereby placed on notice that EPA will take any action which may be necessary in the opinion of EPA for the protection of public health and welfare and the environment,

and Respondents may be liable under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of those actions.

XI. ENDANGERMENT AND EMERGENCY RESPONSE

37. In the event of any action or occurrence during the performance of the work which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action(s) to prevent, abate, or minimize the threat, and shall immediately notify EPA's primary On-Scene Coordinator ("OSC"), or, if the primary OSC is unavailable, EPA's alternate OSC, as designated below in paragraph 41. If neither of these persons is available, Respondents shall notify the EPA Emergency Response Unit, Region IX, phone number (415) 744-2000. Respondents shall take such action(s) in consultation with EPA's OSC and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan.

38. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site.

XII. MODIFICATION OF WORK REQUIRED

39. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA OSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked no later than three (3) days of discovery of the unanticipated or changed circumstances.

40. The Director of the Superfund Division, EPA Region IX, may determine that in addition to tasks addressed herein, additional work may be required to address the unanticipated or changed circumstances referred to in paragraph 39. Where consistent with Section 106(a) of CERCLA, the Director of the Superfund Division, EPA Region IX, may direct, as an amendment to this Order, that Respondents perform these response actions in addition to those required herein. Respondents shall implement the additional tasks which the Director of the Superfund Division, EPA Region IX, identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by the Director of the Superfund Division, EPA Region IX in any modifications to this Order.

XIII. DESIGNATED PROJECT MANAGERS

41. EPA designates Tom Dunkelman, an employee of Region IX of EPA, as its primary On-Scene Coordinator ("OSC") and designated representative at the Site, who shall have the authorities, duties, and responsibilities vested in the OSC by the NCP. This includes, but is not limited to, the authority to halt, modify, conduct, or direct any tasks required by this Order or undertake any response actions (or portions of the response action) when conditions at the Site present or may present a threat to public health or welfare or the environment as set forth in the NCP. Within fifteen (15) days of the Effective Date of this Order, Respondents shall designate a Project Coordinator who shall be responsible for overseeing Respondents' implementation of this Order. To the maximum extent possible, all oral communications between Respondents and EPA concerning the activities performed pursuant to this Order shall be directed through EPA's OSC and Respondents' Project Coordinator. All documents, including progress and technical reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be delivered in accordance with Paragraphs 28-30 above.

42. EPA and Respondents may change their respective OSC and Project Coordinator. Notification of such a change shall be made

by notifying the other party in writing at least five (5) days prior to the change, except in the case of an emergency, in which case notification shall be made orally followed by written notification as soon as possible.

43. Consistent with the provisions of this Order, EPA designates John Jaros as an alternate OSC, in the event Tom Dunkelman is not present at the site or is otherwise unavailable. During such times, John Jaros shall have the authority vested in the On-Scene Coordinator ("OSC") by the NCP, as set forth in paragraph 41 above.

44. The absence of the EPA OSC from the Site shall not be cause for the stoppage of work. Nothing in this Order shall limit the authority of the EPA OSC under federal law.

XIV. SITE ACCESS

45. Respondents shall permit EPA and its authorized representatives to have access at all times to the Site to monitor any activity conducted pursuant to this Order and to conduct such tests or investigations as EPA deems necessary. Nothing in this Order shall be deemed a limit upon EPA's authority under federal law to gain access to the Site.

46. To the extent that Respondents require access to land other than land they own in carrying out the terms of this Order, Respondents shall, within fifteen (15) days of the Effective Date

of this Order, obtain access for EPA, its contractors, oversight officials, or other authorized representatives; state oversight officials and state contractors; and Respondents or their authorized representatives. If Respondents fail to gain access within fifteen (15) days, they shall continue to use best efforts to obtain access until access is granted. For purposes of this paragraph, "best efforts" includes but is not limited to, seeking judicial assistance, providing indemnification, and/or the payment of money as consideration for access. If access is not provided within the time referenced above, EPA may obtain access under Sections 104(e) or 106(a) of CERCLA.

XV. REIMBURSEMENT OF OVERSIGHT COSTS

47. Respondents shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondents shall, within thirty (30) days of receipt of the bill, remit by cashiers or certified check for the amount of those costs made payable to the

"Hazardous Substance Superfund," to the following address:
U.S. Environmental Protection Agency
Region 9, Attn.: Superfund Accounting
P.O. Box 360863M
Pittsburgh, PA 15251

Respondents shall send a cover letter with any check and the letter shall identify the PRC Patterson Site by name and make reference to this Order. Respondents shall send simultaneously to the EPA OSC notification of any amount paid, including a photocopy of the check.

48. Interest at the rate established under section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

XVI. DELAY IN PERFORMANCE

49. Any delay in performance of any requirement of this Order that, in the EPA's judgment, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other obligation of Respondents under the terms and conditions of this Order.

50. Respondents, as applicable, shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's primary OSC within twenty-four (24) hours after Respondents first knew or should have known that a delay might occur. The Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying

EPA by telephone, the Respondents shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why the Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

51. If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay. The submission of an extension request shall not itself affect or extend the time to perform any of Respondents' obligations under this Order.

52. If EPA determines that good cause exists for an extension of time, it may grant a request made by Respondents pursuant to paragraph 51 above, and specify in writing to the Respondents the new schedule for completion of the activity and/or submission of the document for which the extension was requested.

XVII. RECORD PRESERVATION

53. Respondents shall maintain, during the pendency of this Order, and for a minimum of five (5) years after EPA provides notice to Respondents that the work has been completed, a depository of the records and documents required to be prepared under this Order. In addition, Respondents shall retain copies of the most recent version of all documents that relate to hazardous substances at the Site and that are in its possession or in the possession of its employees, agents, contractors, or attorneys. After this five-year period, Respondents shall notify EPA at least thirty (30) days before the documents are scheduled to be destroyed. If EPA so requests, Respondents shall provide these documents to EPA.

XVIII. ENFORCEMENT AND RESERVATIONS

54. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. §9607, for recovery of any response costs incurred by the United States related to this Order and not reimbursed by Respondents. This reservation shall include but not be limited to past costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support oversight costs, as well as accrued interest as provided in Section 107(a) of CERCLA, 42 U.S.C. §9607.

55. Notwithstanding any other provision of this Order, at any time during the response action, EPA may perform its own studies, complete the response action (or any portion of this response action) and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.

56. Nothing in this Order shall preclude EPA from taking any additional enforcement action, including modification of this Order or issuance of additional Orders, or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9607(a), et seq., or any other applicable law. Respondents shall be liable under CERCLA Section 107(a), 42 U.S.C. §9607(a), for the costs of any such additional actions.

57. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA or any other applicable statutes or regulations.

58. Notwithstanding compliance with the terms of this Order, including the completion of an EPA-approved response actions, Respondents are not released from liability, if any, for any enforcement actions beyond the terms of this Order taken by EPA.

59. EPA reserves the right to take any enforcement action pursuant to CERCLA or any other legal authority, including the right to seek injunctive relief, monetary penalties, reimbursement of response costs, and punitive damages for any violation of law or this Order.

60. EPA expressly reserves all rights and defenses that it may have, including the EPA's right both to disapprove of work performed by Respondents and to request the Respondents perform tasks in addition to those detailed in this Order, as provided in Section VIII C of this Order.

61. This Order does not release Respondents, individually or collectively, from any claim, cause of action or demand in law or equity, including, but not limited to, any claim, cause of action, or demand which lawfully may be asserted by representatives of the United States or the State of California.

62. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondents will be construed as relieving Respondents of their obligation to obtain such formal approval as may be required by this Order.

XIX. SEVERABILITY

63. If any provision or authority of this Order or the application of this Order to any circumstance is held by a court

to be invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected thereby, and the remainder of this Order shall remain in force.

XX. DISCLAIMER

64. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States shall be held as a party to any contract entered into by Respondents, or their employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXI. PENALTIES FOR NONCOMPLIANCE

65. Respondents are advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject Respondents to a civil penalty of up to \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also

subject Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the failure of Respondents to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XXII. EFFECTIVE DATE

66. This Order is effective five (5) days after the date it is signed.

XXIII. TERMINATION AND SATISFACTION

67. The provisions of this Order shall be deemed satisfied upon Respondents' receipt of written notice from EPA that Respondents have demonstrated, to the satisfaction of EPA, that all of the terms of this Order, including any additional tasks which EPA has determined to be necessary, have been completed.

Unilateral Administrative Order 98-12

IT IS SO ORDERED:

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

By: Keith A. Takata
Keith A. Takata, Director
Superfund Division
Region IX

Date: 8-12-98

EPA Region IX Contacts:

Tom Dunkelman
On-Scene Coordinator (SFD-6)
Hazardous Waste Management Division
EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2294

Jeanne Elias
Assistant Regional Counsel (ORC-3)
Office of Regional Counsel
EPA, Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-1317

Attachment 1 - List of Respondents
Attachment 2 - Additional Definitions
Attachment 3 - PRC Patterson Site map

Attachment 1
PRP Generator List

1. Advanced Environmental
Attn: Jim Ennis
13579 Whittram Avenue
Fontana, CA 92335
2. Advance Petroleum Recycling
Attn: Joseph Havadi
9642 Aspen Hills
Sandy, UT 84092
3. Alameda Contra Costa Transit
Attn: Kenneth Scheidig
1600 Franklin Street, 6th Floor
Oakland, CA 94612
4. All Petroleum
Attn: C.O. Triebel
405 14th Street; Suite 1000
Oakland, CA 94612
5. Allied Oil & Pumping
Attn: Rex Shipman
1254 San Moritz
San Jose, CA 95132
6. Allied Petroleum
Colin Kelley
1217 South 7th Street
Modesto, CA 95351
7. Alviso Independent Oil, Inc.
Attn: Larry Evans
1110 Taylor Street
Alviso, CA 95002
8. American Valley Environmental
Attn: Bill Lemos, President
2930 Geer Road; Suite 253
Turlock, CA 95382
9. Arco Products Co.
Attn: John Meck
333 South Hope Street; PAC 1631
Los Angeles, CA 90071
10. Burlington Northern and Santa Fe
c/o Banchemo & Lasater
Attn: Jeffrey Banchemo
20 California ST; Suite 700
San Francisco, CA 94111
11. Cal Trans
Attn: Kathy Papalia
1120 N Street; Legal
Sacramento, CA 95814
12. Chico Drain Oil Service
c/o Greene, Chauvel, Desculso & Tully
Attn: Ronald C. Chauvel
901 Mariner's Island Blvd., Ste. 400
San Mateo, CA 94024
13. Crane's Waste Oil
Attn: Janet Crane
15412 Highway 178
Weldon, CA 93283
14. Desert Mountain Oil
c/o Avansino, Melarkey, & Knobel
Attn: Mark Knobel
165 West Liberty Street
Reno, NV 89501
15. Dura Built Transmission
Attn: David Fireworker
9317 Greenback Lane
Orangevale, CA 95662
16. Federal Pacific Electric Co.
c/o North American Transformer
Attn: Ana Javier
1200 Piper Drive
Milipitas, CA 95035
17. Gibson Environmental
Attn: W P Van Loben Sels
12042 Davis Cup Court
Bakersfield, CA 94611
18. H & H Ship Service Company
Attn: William Harris
37 La Salle Avenue
Piedmont, CA 94611
19. Hedrick Distributors Inc.
c/o Bayside Oil
Attn: Kim Glen
210 Encinal Street
Santa Cruz, CA 95060

20. Homestake Mining
c/o Mc Laughlin Mine
Attn: Allan Cox
650 California Street
San Francisco, CA 94108
21. Huntway Refinery
Attn: Juan Forster
25129 The Old Road, Ste. 322
Newhall, CA 91381
22. Kaiser Permanente
Attn: Hee Young Lee
One Kaiser Plaza
Oakland, CA 94612
23. Laidlaw Environmental
c/o Safety Kleen
Attn: Mark C. Attaway
1301 Gervais Street
Columbia, SC 29201
24. Lassen Gold Mining, Inc.
c/o Kinross Gold, Inc.
Attn: John Ivany
40 King St. West - Scotia Plaza, 57th Fl.
Toronto, Ontario M 5H3Y2
25. Marin Tug & Barge, Inc.
Attn: Gary Winston
1316 Canal Blvd
Richmond, CA 94804
26. Matson Navigation
Attn: Brad Mulholland
333 Market Street
San Francisco, CA 94105
27. Mobil Oil
c/o Beveridge & Diamond
Attn: Penny Wirsing
3225 Gallows Road; Room 6W803
Fairfax, VA 22037
28. National Steel & Ship Building
c/o NASSCO
Attn: R.A. Sackett
PO Box 85278
San Diego, CA 92186
29. Nor Cal Oil
c/o Herom, Crabtree, Pyer, Zolezzi, & Terpstra
Attn: Karna E. Harrigfelt
2291 West Murch Lane, B100
Stockton, CA 95207
30. Owens-Illinois Inc.
Attn: Robert Towles
One Seagate
Toledo, OH 43666
31. Pacific Bell
Attn: Elta Wilson
1010 Wilshire Boulevard; Room 1501
Los Angeles, CA 90017
32. Petro Lube
Attn: Nathan Perry
2151 South Avenue
Corning, CA 96021
33. Pinole Point Steel Company
Attn: Greg O'Hara
333 West San Carlos
San Jose, CA 95113
34. Primex Physics International
c/o Maxwell Technologies, Inc.
Attn: Dean Charles
8888 Balboa Avenue
San Diego, CA 92123
35. PSC Allwaste Transportation & Remediation
Attn: Dennis Carvalho
12475 Llagas Avenue
San Martin, CA 95046
36. Ramos Environmental Services
Attn: Kyle Ramos
1515 S River Road
West Sacramento, CA 95691
37. Reed & Graham, Inc.
Attn: Aldo Branch
690 Sunol Street
San Jose, CA 95126
38. Reno Drain Oil Service
Attn: Richard Channel
11970 I-80 East
Sparks, NV 89434

39. Sacramento Waste Oil
Attn: Albert Hernandez
4504 Dunnbury Way
Sacramento, CA 95842
40. Safe-Way Chemical Co.
Attn: Steve Lambrecht
664 Stockton Ave
San Jose, CA 95126
41. Santa Clara VTA
Attn: Kevin Allmand
3331 North 1st Street, Bldg. C
San Jose, CA 95134
42. Service Engineering
c/o Continental Maritime Inc.
Attn: Lee Wilson
1995 Bayfront Street
San Diego, CA 91977
43. Signode
c/o Clayton Environmental Consultants
Attn: Mike Dudasko
1252 Quarry Lane
Pleasanton, CA 94566
44. San Francisco Dry Dock
c/o Southwest Marine
Attn: Sandor Halvax
2205 East Belt Street
San Diego, CA 92113
45. Tank Testing Services
c/o GawVan Male Smith Myers & Miroglio
Attn: David G. Knitter
1261 Travis Boulevard
Fairfield, CA 94533
46. Texaco, Inc.
Attn: Gordon A. Turl
10 Universal City Plaza; Room 1333
Universal City, CA 91608
47. Time Oil Company
Attn: Richard Gordon
2737 West Commodore Way
Seattle, WA 98199
48. Union Oil Company of California (UNOCAL)
Attn: Bob King
376 South Valencia Road
Brea, CA 92621
49. Union Pacific Railroad Company
Attn: Robert Bylsma
10031 Foothills Blvd., Suite 200
Roseville, CA 95747
50. United Can Company
Attn: Yvonne Castle
1645 W. Valencia Drive
Fullerton, CA 92833
51. Waste Oil Recovery Systems, Inc.
Attn: Anthony Falcon
6401 Leona Street
Oakland, CA 94605
52. World Color Merced
Attn: General Counsel
2201 Cooper Avenue
Merced, CA 95348
53. Yyk Enterprises, Inc.
Attn: Cullin Morning
1020 44th Ave
Oakland, CA 94601

Additional Definitions

"Action Memorandum" shall mean the Action Memorandum concurred on by the State of California, issued by the United States Environmental Protection Agency on November 4, 1997.

"Contractor" shall mean Respondents' contractor(s) and subcontractors contracted to perform the installation/construction, and operation and maintenance activities relating to any of the specific response actions at the Site Respondents are required to perform.

"Day" shall mean a calendar day unless expressly stated to be a working day. "Working day" shall mean a day other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"Operation and Maintenance activities" shall include future operation and maintenance of all structures built or installed to contain the arsenic contamination at the Site until such time as EPA approves the cessation of such activities.

"Paragraph" shall mean a portion of this Unilateral Order identified by an Arabic numeral.

"Parties" shall mean the United States, and all those entities identified as Respondents in Attachment 1 of this order.

"Section" shall mean a portion of this Unilateral Order identified by a Roman numeral and including one or more paragraphs.

